

**REMARKS**

Claim 15 has been cancelled. Claims 1, 16 and 27 have been amended. Claims 1, 3-14 and 16-33 remain pending in the application.

The Applicants respectfully request the Examiner to reconsider earlier rejections in light of the following remarks. No new issues are raised nor is further search required as a result of the changes made herein. Entry of the Amendment is respectfully requested.

**Claims 1, 3-7, 12-21 and 26-29 over Lechleider in view of Bellenger and Lu**

In the Office Action, claims 1, 3-7, 12-21 and 26-29 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lechleider, U.S. Patent No. 6,091,713 ("Lechleider") in view of Bellenger et al., U.S. Patent No. 6,058,110 ("Bellenger") and U.S. Patent No. 6,870,899 to Lu et al. ("Lu"). Claim 15 has been cancelled. The Applicants respectfully traverse the rejection of the remaining claims.

Claims 1, 3-7 and 12-14 recite receiving a subscriber login request while a service line connected to a DSL portion of a combination analog/DSL modem is not provisioned for DSL service, and provisioning DSL service on said service line if suitability is determined to support DSL service, wherein the DSL service is automatically qualified for service. Claims 16-21 recite program code for logging into a network site via an analog modem portion of a combination analog/DSL modem while a service line connected to the DSL portion of the modem is not provisioned for DSL service, and program code for receiving provisioned DSL services when the service line is tested to be suitable to support DSL services, the combination analog/DSL modem being automatically switched to use of a DSL portion after provisioning. Claims 27-29 recite a parameter reference module adaptively connected to said combination analog/DSL modem connected to a service line that is not provisioned for DSL service and that is adapted to instruct a service provider to attempt provision of DSL service on the service line if suitability is determined to support DSL service.

Thus, claims 1, 3-7, 12-21 and 26-29 recite an analog/DSL modem for efficient provisioning of DSL service.

The Examiner alleged that Lechleider discloses provisioning of DSL service on a service line if suitability is determined to support DSL service at col. 7, lines 40-47. The Examiner admits, however, that Lechleider does not disclose the use of an analog/DSL modem wherein a service line connected to the combination analog/DSL modem is not provisioned for DSL service until the service line is tested. Office Action, p. 3. Lechleider also does not disclose automatically provisioning the service line for DSL service if the line is determined to be suitable. Instead, Lechleider, col. 7, lines 40-47 discloses creating a list of subscriber loops meeting ADSL band deployment criteria, which may be used by service providers to determine the suitability of subscribers for DSL service. Thus, Lechleider fails to disclose or suggest use of a combination analog/DSL modem connected to a service line before the line is provisioned for DSL service and automatically qualifying the line for DSL service if it determined to be suitable, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

The Examiner acknowledges that Lechleider fails to disclose use of an analog/DSL modem wherein the combination analog/DSL modem is not provisioned for DSL service until the suitability of the service line is tested. (See Office Action, page 3). The Office Action relies on Bellenger and Lu to allegedly make up for the deficiencies in Lechleider to arrive at the recited features. The Applicants respectfully disagree.

Bellenger at col. 2, lines 60-67 is cited by the Examiner as allegedly disclosing an analog/DSL modem that provides analog service while operating in the analog (voice) band and DSL service while operating in the DSL band. Office Action at 3. Bellenger, however, discloses a modem that operates in a plurality of bands, with operation in the DSL band if the telephone line is capable of carry signals in the DSL band (see Bellenger col. 2, lines 57-67). In Bellenger, the service line connected to the modem is already provisioned for DSL service. Bellenger does not disclose a combination analog/DSL modem that is connected to a service line before it is provisioned for DSL service and that tests the line for

its suitability for DSL service and where if the line is found suitable, it is automatically qualified for DSL service, as recited by claims 1, 3-7, 12-14 and 16-21 and 26-29.

Lu is cited by the Examiner to disclose provisioning of a DSL line at col. 3, lines 1-5, col. 1 and 2 Background. However, Lu at col. 1, lines 31-35 simply discloses that ADSL does not require provisioning of any new lines but instead can be executed over a single twisted-wire pair, such as an existing telephone line. Lu's invention is directed toward qualifying loops for ADSL service that do not require provisioning (see col. 4, lines 44-47). Thus, although Lu mentions provisioning of DSL service in the Background of the Invention, Lu's invention is directed toward service loops that do not require provisioning. Thus, Lu's invention fails to disclose or suggest provisioning. However, even if Lu disclosed provisioning, which Lu fails to do, Lu fails to disclose or suggest use of a combination analog/DSL modem that is connected to a service line before it is provisioned for DSL service, and where the line is automatically provisioned for DSL service, where the provisioning comprises connecting the user's location to a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

Moreover, the Examiner alleged (Office Action p. 4) that it would have been obvious to modify Lechleider with the disclosure of Bellenger "because the DSL band modem would be automatically provisioned and qualified for DSL band communications as taught by Bellenger and would advantageously modify the method of Lechleider by removing the step of replacing the analog (voice) band modem with one that operates in the DSL band (a DSL modem)." However, as discussed above, Lechleider's invention has nothing to do with automatically provisioning of DSL service to a service line that previously had not been provisioned for DSL service. Moreover, Bellenger involves connection to a service line that is already provisioned for DSL service. Thus, there is nothing within either Lechleider or Bellenger that discloses or suggests modifying Lechleider to use a combination analog/DSL modem that is connected to a service line before it is provisioned for DSL services and if the line is found

suitable, to automatically provision a connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

Thus, the only reference that discloses use of a modem that is able to operate within multiple bands, Bellenger, fails to disclose or suggest use of that modem on a line that is not provisioned for DSL service and to facilitate provisioning of DSL service on that line. The only reference that mentions provisioning, Lu, fails to disclose provisioning as part of his invention. Lechleider in view of Bellenger and Lu would still fail to disclose, teach or suggest use of a combination analog/DSL modem connected to a service line before it is provisioned for DSL service and if the line is found suitable, to automatically facilitate provisioning of DSL service on that line by provisioning a connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

Accordingly, for at least all the above reasons, claims 1, 3-7, 12-14, 16-21 and 26-29 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

**Claims 8-11, 22-25 and 30-33 over Lechleider, Lu and Vogt**

In the Office Action, claims 8-11, 22-25 and 30-33 were rejected under 35 USC § 103(a) as allegedly being obvious over Lechleider in view of Bellenger and Lu, and further in view of U.S. Pat. No. 5,625,667 to Vogt, III et al. ("Vogt").

Claims 8-11 are dependent on independent claim 1, claims 22-25 are dependent on independent claim 16 and claims 30-33 are dependent on independent claim 27. Claims 8-11, 22-25 and 30-33 are patentable over the prior art of record for the same reasons that independent claims 1, 16 and 27 are patentable.

Claims 8-11 recite receiving a subscriber login request while a service line connected to a DSL portion of a combination analog/DSL modem is

not provisioned for DSL service, wherein the DSL service is automatically qualified for service if it is suitable. Claims 22-25 recite program code for logging into a network site via an analog modem portion of a combination analog/DSL modem while the DSL portion is connected to a service line before it is provisioned for DSL service, and program code for receiving provisioned DSL services when the service line is tested to be suitable to support DSL services, the combination analog/DSL modem being automatically switched to use of a DSL portion after provisioning. Claims 30-33 recite a parameter reference module adaptively connected to said combination analog/DSL modem that is connected to a service line before it is provisioned for DSL service and that is adapted to instruct a service provider to attempt provision of DSL service on the service line if suitability is determined to support DSL service.

Thus, claims 8-11, 22-25 and 30-33 recite an analog/DSL modem for efficient provisioning of DSL service.

As discussed above, Lechleider in view of Bellenger and Lu fails to disclose, teach or suggest use of a combination analog/DSL modem that is connected to a service line before it is provisioned for DSL service and if the line is found to be suitable, facilitates provisioning of DSL service that comprises provisioning a connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 8-11, 22-25 and 30-33.

The Examiner relied on Vogt to allegedly disclose tip and ring voltage that can be measured to calculate the capacitance and resistance of a telephone line and measurement of parameters of a telephone line to detect potential problems. Office Action, page 11. However, Vogt fails to disclose or suggest use of a combination analog/DSL modem for any reason, much less a combination analog/DSL modem that is connected to a service line before it is provisioned for DSL service and if the line is found to be suitable, that facilitates the automatic provisioning of DSL service that comprises provisioning a connection between a subscriber's location, a central office and a service

provider's complementary DSL device, as recited by claims 8-11, 22-25 and 30-33.

Thus, Lechleider in view of Bellenger, Lu and Vogt fails to disclose, teach or suggest a combination analog/DSL modem that is connected to a service line before it is provisioned for DSL service and if the line is found to be suitable, that facilitates the automatic provisioning of DSL service that comprises provisioning a connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 8-11, 22-25 and 30-33.

Accordingly, for at least all the above reasons, claims 1, 3-14 and 16-33 are patentable over the prior art of record. It is therefore respectfully requested that the rejections be withdrawn.

**Conclusion**

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



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